

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

FILED

JUL 01 2013

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY KIC
DEPUTY CLERK

UNITED STATES OF AMERICA,
Plaintiff,

v.

DONALD EDWARD LAINE,
Defendant,

and

VELOCITY CREDIT UNION,
Garnishee.

CASE NO. A-02-CR-022(1)-SS

EX PARTE APPLICATION FOR WRIT OF GARNISHMENT
(Redacted Version)

The United States of America makes application pursuant to 18 U.S.C. § 3613 and 28 U.S.C. § 3205 to the Clerk of the United States District Court for the Western District of Texas to issue a writ of garnishment upon the property of the Defendant, who is a judgment debtor of the United States. The writ of garnishment is sought in connection with a criminal judgment in this case in the amount of \$7,267,882.05 against the Defendant, Donald Edward Laine, Social Security Number ***-**-6502, whose last known address is in, Austin, Texas 78747. According to the records of the United States District Clerk for the Western District of Texas, the current balance of the judgment debt is \$6,496,430.20 as of June 14, 2013. The judgment bears interest at the rate of 0% per year, and the liability is joint and several with co-defendants, Jimmy D. Duncan, A-02-CR-123(1)-SS and Dennis E. Winger, A-02-CR-007(1)-SS.

Not less than thirty (30) days have elapsed since demand was made on the Defendant for payment of the debt, and the Defendant has failed to satisfy the debt. The Garnishee, its affiliates, successors, or assigns is believed to owe or will owe money or property to the Defendant, or is in

possession of property of the Defendant, and said property is a substantial non-exempt interest of the Defendant. Specifically, it is believed that Defendant maintains several accounts with the Garnishee.

The name and address of the Garnishee and/or its authorized agent is:

Velocity Credit Union
Attn: Joe Putman
Sr. VP of Risk Mgmt.
610 E. 11th Street
Austin, Texas 78701

The United States respectfully requests that the writ be continuing in nature, pursuant to 28 U.S.C. § 3205(c)(10). The United States is also entitled to a surcharge of ten percent of the amount of the debt under the provisions of 28 U.S.C. § 3011 in connection with the litigation of this post-judgment remedy.

Respectfully submitted,

ROBERT PITMAN
United States Attorney

By: /s/ Kristy K. Callahan
KRISTY K. CALLAHAN
Assistant United States Attorney
Mississippi Bar No. 101255
601 NW Loop 410, Suite 600
San Antonio, TX 78216
T: (210) 384-7255
F: (210) 384-7247
Kristy.Callahan@usdoj.gov

UNITED STATES OF AMERICA,)
Plaintiff,)
v.)
DONALD EDWARD LAINE,)
Defendant,)
and)
VELOCITY CREDIT UNION,)
Garnishee.)

CASE NO. A-02-CR-022(1)-SS

**GREETINGS TO: Velocity Credit Union
Attn: Joe Putman
Sr. VP of Risk Mgmt.
610 E. 11th Street
Austin, Texas 78701**

An application for a Writ of Garnishment against the property of Donald Edward Laine, Defendant, has been filed with this Court. A criminal judgment has been entered against the above-named Defendant in favor of the United States of America in the amount of \$7,267,882.05 comprised of restitution of \$7,267,682.05 and a special assessment of \$200.00. The current balance of \$6,496,430.20, according to the records of the United States District Clerk for the Western District of Texas, remains due and owing as of June 14, 2013. The judgment bears interest at the rate of 0% per year. The judgment was issued in a criminal matter. Under the Mandatory Victims Restitution Act (MVRA), 18 U.S.C. § 3613(a)(1), the United States may enforce a criminal judgment imposing a fine or restitution against all property or right to property of the defendant, “notwithstanding any other Federal law...” subject to certain exemptions, which are not applicable in this matter.

Pending further order of this court, and pursuant to 28 U.S.C. § 3205(c)(7), the Garnishee, Velocity Credit Union, shall withhold and retain any property in which the Defendant, Donald Edward Laine, has a substantial non-exempt interest and for which it is or may become indebted to the Defendant, until further order of the Court.

You are required by law to answer in writing, under oath, within ten (10) days, whether or not you have in your custody, possession, or control, or anticipate receiving any property in which the Defendant has a substantial non-exempt interest. You may use the attached form for this purpose, if you wish. You must file the original written answer to this writ within ten (10) days of your receipt of this writ with the United States District Clerk at: United States Courthouse, 501 W. 5th Street, Suite 1100, Austin, Texas 78701. Additionally, you are required by law to serve a copy of your answer upon the Defendant, Donald Edward Laine, 10306 Pinehurst Drive, Austin, Texas 78747. You must also serve a copy of your answer upon the United States Attorney, Attn: Kristy K. Callahan, Assistant United States Attorney, 601 N.W. Loop 410, Suite 600, San Antonio, Texas 78216.

Under the law, there is property which is exempt from this writ of garnishment. Property which is exempt and which may not be subject to this order is described on the attached form.

If you fail to answer this writ or withhold property in accordance with this writ, the United States of America may petition the court for an order requiring you to appear before the court. If you fail to appear or do appear and fail to show good cause why you failed to comply with this writ, the court may enter a judgment against you for the value of the Defendant's non-exempt property. It is unlawful to pay or deliver to the Defendant any item attached by this writ.

This writ is continuing in nature and shall be terminated only if one of the following conditions are met: 1) the court issues an order quashing the writ, 2) the property in your possession,

custody, or control in which the Defendant has a substantial nonexempt interest is exhausted (with certain exceptions set out in 28 U.S.C. § 3205(c)(10)(B)), or 3) the debt with respect to which the writ is issued is satisfied.

DATED this _____ day of _____.

UNITED STATES DISTRICT CLERK
WESTERN DISTRICT OF TEXAS

UNITED STATES OF AMERICA,
Plaintiff,

v.

DONALD EDWARD LAINE,
Defendant,

and

VELOCITY CREDIT UNION,
Garnishee.

and

There are exemptions under the law which may protect some of the property from being taken by the Government if you can show that the exemptions apply. A detailed explanation of the exemptions is contained in the attached form. The right to exempt property from this claim is established by federal law, 18 U.S.C. § 3613. If you don't understand your rights, you may wish to seek advice as discussed below. You have a right to ask the court to return your property to you if you think that you do not owe the money to the government that it says you do. If you think the

property the government is taking qualifies under one of the exemptions, you may use the enclosed form to claim those exemptions. You must either mail it or deliver it in person to the Clerk of the United States District Clerk, Western District of Texas, United States Courthouse, 501 W. 5th Street, Suite 1100, Austin, Texas 78701.

If you want a hearing, you must notify the court within 20 days after receipt of this notice. Your request must be in writing. If you wish, you may use the attached form. You must either mail it or deliver it in person to the Clerk of the United States District Clerk, Western District of Texas, United States Courthouse, 501 W. 5th Street, Suite 1100, Austin, Texas 78701. You must also send a copy of your request to the United States Attorney for the Western District of Texas, ATTN: AUSA Kristy K. Callahan, 601 N.W. Loop 410, Suite 600, San Antonio, Texas 78216, so the Government will know you want a hearing. The hearing may take place within 5 days after the Clerk receives your request, if you ask for it to take place that quickly, or as soon after that as possible. The court will issue an order advising you of the time, place and date of the hearing. At the hearing you may explain to the judge why you believe the property the Government is taking is exempt or why you think you do not owe the money to the Government. If you do not request a hearing within 20 days of receiving this notice, the proceeds from the garnishment will be paid on the debt you owe to the United States Government.

If you think you live outside the Federal judicial district in which the court is located, you may request, not later than 20 days after you receive this notice, that this proceeding to take your property be transferred by the court to the Federal judicial district in which you reside. You must make your request in writing, and either mail it or deliver it in person to the Clerk of the Court at the United States Courthouse, at 501 W. 5th Street, Suite 1100, Austin, Texas 78701. If you wish, you may use the attached form. You must also send a copy of your request to the United States Attorney

for the Western District of Texas ATTN: AUSA Kristy K. Callahan, 601 N.W. Loop 410, Suite 600,
San Antonio, Texas 78216, so the Government will know you want the proceeding to be transferred.

Be sure to keep a copy of this notice for your own records. If you have any questions about
your rights or about this procedure, you should contact a lawyer, an office of public legal assistance,
or the clerk of the court. The clerk is not permitted to give legal advice, but can refer you to other
sources of information.

DATE: _____

UNITED STATES DISTRICT CLERK
WESTERN DISTRICT OF TEXAS

UNITED STATES OF AMERICA,
Plaintiff,

v.

DONALD EDWARD LAINE,
Defendant,

and

VELOCITY CREDIT UNION,
Garnishee.

V.

DONALD EDWARD LAINE,
Defendant,

and

VELOCITY CREDIT UNION,
Garnishee.

____ Fuel, provisions, furniture, and personal effects that do not exceed **\$8,790**.
26 U.S.C. § 6334(a)(2) & (g).

_____ Books and tools of a trade, business, or profession that do not exceed **\$4,400**. 26 U.S.C. § 6334(a)(3) & (g).

_____ Unemployment benefits. 26 U.S.C. § 6334(a)(4).

_____ Undelivered mail. 26 U.S.C. § 6334(a)(5).

_____ Certain annuity and pension payments – Annuity or pension payment under the Railroad Retirement Act, benefits under the Railroad Unemployment Insurance Act, special pension payments received by a person whose name has been entered on the Army, Navy, Air Force, and Coast Guard Medal of Honor Roll (38 U.S.C. § 1562), and annuities based on retired or retainer pay under Chapter 73 of Title 10 of the United States Code. 26 U.S.C. § 6334(a)(6).

_____ Workmen's compensation. 26 U.S.C. § 6334(a)(7).

_____ Judgments for support of minor children pursuant to a court judgment entered prior to the date of levy to contribute to the support of a defendant's minor children. 26 U.S.C. § 6334(a)(8).

_____ Certain service-connected disability payments. 26 U.S.C. § 6334(a)(10).

_____ Assistance under Job Training Partnership Act. 26 U.S.C. § 6334(a)(12).

II. REQUEST FOR HEARING

☐ I request a hearing because I do not owe the money to the Government.

Explain: _____

III. REQUEST FOR TRANSFER

☐ I request a transfer to the federal judicial district in which I reside, which is the

_____ District of _____ (state).

Defendant's Signature: _____

Date: _____

Address: _____

E-mail: _____

Daytime Telephone: _____

CERTIFICATE OF SERVICE

I certify that on _____, I mailed a copy of this form to the following:

Velocity Credit Union
Attn: Joe Putman
Sr. VP of Risk Mgmt.
610 E. 11th St.
Austin, Texas 78701

United States Attorney's Office
Attn: Kristy K. Callahan, AUSA
601 N.W. Loop 410, Suite 600
San Antonio, Texas 78216

Signature of Defendant

It is further ORDERED that the United States of America serve Garnishee with a copy of the Writ of Garnishment, accompanied by an instruction explaining the requirement that the garnishee submit a written answer to the writ; that the United States of America serve the Defendant with a copy of the Writ of Garnishment, accompanied by instructions for objecting to the answer of the garnishee and for obtaining a hearing on the objections; and that the United States of America shall file a Certificate of Service with this Court when such service is accomplished.

IT IS FURTHER ORDERED that the Writ of Garnishment shall be continuing in nature and that it shall not terminate until one of the conditions of 28 U.S.C. § 3205(c)(10) is met.

DATED this _____ day of _____.

SAM SPARKS
UNITED STATES DISTRICT JUDGE